

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

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Karen Moore,

Plaintiff,

v.

The Pendergraph Companies,

Defendant.

No. 2:13-cv-3122-RMG

**ORDER**

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that this action be dismissed without prejudice and without issuance of process. (Dkt. No. 16). For the reasons set forth below, the Court agrees with and adopts the R&R as the order of the Court.

**Background**

Plaintiff, proceeding pro se and in forma pauperis, filed this action concerning a dispute with her landlord. Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e) DSC, this case was assigned to a Magistrate Judge for all pretrial proceedings. Under established local procedure in this judicial district, the Magistrate Judge conducted a careful review of the complaint pursuant to the provisions of 28 U.S.C. § 1915 and in light of the following precedents: *Neitzke v. Williams*, 490 U.S. 319 (1980); *Estelle v. Gamble*, 429 U.S. 97 (1976); *Haines v. Kerner*, 404 U.S. 519 (1972); and *Gordon v. Leeke*, 574 F.2d 1147 (4th Cir. 1978). The Magistrate Judge then issued the present R&R recommending this case be dismissed without prejudice and without issuance and service of process. (Dkt. No. 16). Plaintiff filed no objections to the R&R.

### **Legal Standard**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

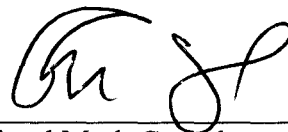
### **Discussion**

After review of the record and the R&R, the Court finds no clear error on the face of the record and therefore agrees with and wholly adopts the R&R as the order of the Court. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). The Court agrees with the Magistrate Judge that the Court lacks jurisdiction over this action.

### **Conclusion**

As set forth above, the Court agrees with and wholly adopts the R&R as the order of the Court. (Dkt. No. 16). Accordingly, this action is dismissed without prejudice and without issuance of service of process and the motion for preliminary injunction (Dkt. No. 5) is denied as moot.

**AND IT IS SO ORDERED.**



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Richard Mark Gergel  
United States District Court Judge

March 6, 2014  
Charleston, South Carolina